IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2005

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM
AND
THE HONOURABLE MR. JUSTICE S.K.KRISHNAN

Writ Petition No.8188 of 2002

1. The Regional Provident Fund Commissioner,
   No.37, Royapettah High Road,
   Chennai - 600 014.

2. The Additional Central Provident Fund
   Commissioner, South Zone,
   Barkatpura, Hyderabad - 27. ... Petitioners

v.

1. The Central Administrative Tribunal,
   Represented by its Registrar,
   Chennai Bench,
   City Civil Court Building,
   High Court Campus, Chennai - 600 108.

2. G.Natarajan ... Respondents

Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the first respondent Tribunal relating to its proceedings dated 20.11.2001 in OA. No.1368 of 2000 and quash the same.

For Petitioners : Mr. V.Vijayashankar, for
Mr.M.Veluswamy

For Respondents : No Appearance.

ORDER

(ORDER OF THE COURT WAS MADE
BY P.SATHASIVAM,J.)

Aggrieved by the order of the Central Administrative Tribunal, dated 20.11.2001 made in O.A.No.1368 of 2000, the Regional Provident Fund Commissioner, Chennai - 14 and the

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Additional Central Provident Fund Commissioner, Hyderabad have filed the above writ petition.

2. According to the petitioners, while the second respondent was working as an Upper Division Clerk (UDC), he was served with a charge memo, dated 20.10.1995 by the first petitioner under Rule 10 of Employees' Provident Fund Staff (Classification, Control and Appeal) Rules, 1971. The said charge memo contained five articles of charges. The enquiry officer submitted his report holding that Article-III alone stood proved and the other charges were not established. The disciplinary authority, disagreeing with the view of the enquiry officer, after issuance of notice and calling for an explanation by order dated 31.12.1998, found that all the charges were proved, and imposed a punishment of reduction to the lower post of Lower Division Clerk (LDC) in the pay scale of Rs.3,050-4,590 for a period of five years. Aggrieved by the same, an appeal was preferred by the second respondent and the same was also rejected on 18.08.2000 by the second petitioner herein. Thereafter, the second respondent filed O.A.No.1368 of 2000 before the Central Administrative Tribunal, the first respondent herein, to quash the order of the second petitioner dated 18.08.2000. By the impugned order dated 20.11.2001, the Tribunal, after finding that the punishment imposed on the applicant is excessive, modified it into one of reduction in his pay by two stages in the grade of UDC for a period of one year, without cumulative effect. Questioning the same, the Regional Provident Fund Commissioner and the Additional Central Provident Fund Commissioner, Hyderabad, have filed the above writ petition.

3. Heard the learned counsel for petitioners.

4. The only point for consideration in this writ petition is, whether, the Tribunal is justified in interfering with the punishment and modifying the same.

5. The learned counsel for the petitioners, after taking us through the Articles of charges, decision taken by the disciplinary authority, confirmation order made by the appellate authority as well as the order impugned, would contend that the Tribunal is not justified in reducing the punishment from the one ordered by the disciplinary authority. He further contended that, even if the Tribunal finds that the punishment is disproportionate or excessive, it ought to have remitted the matter to the Tribunal for passing fresh orders.

6. In the light of the above arguments, we have gone through the Articles of charges and the ultimate order

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passed by the disciplinary and the appellate authorities. It is true that the second respondent herein was arrested on five occasions. However, there is no information regarding the criminal cases launched against him and the ultimate decision by the Court concerned. Further, a perusal of the order of the Tribunal shows that considering the allegations made in the form of charges, the explanation offered by the applicant, outcome of the enquiry proceedings, the fact that the applicant had not been convicted in any criminal case and after satisfying itself that the penalty of reduction in the rank to the grade of LDC from UDC is excessive, the Tribunal modified the punishment. Though, the learned counsel for the petitioners heavily relied on the judgment of the Supreme Court in the case of Sancha lakshri and another Vs. Vijayakumar Raghu Virprasad Metha and another. (1998) 8 S.C.C. 245, wherein it was held that the Tribunal was not justified in interfering with the punishment, in the light of the reasons given by the Tribunal and of the important aspect that the applicant had not been convicted in any criminal case, we are of the view that the modified punishment would meet the ends of justice. In the absence of any other material, we are not inclined to interfere with the impugned order of the Tribunal. Consequently, the writ petition fails and the same is dismissed. WPMP. No.11189 of 2002 is also dismissed. No costs.

mf/srk

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Registrar,
   The Central Administrative Tribunal,
   Chennai Bench,
   City Civil Court Building,
   High Court Campus, Chennai - 600 108.

+ one cc to Mr. M. Veluswami, Advocate sr no. 47818

VP(CO)
NM(15.12.2005)

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